

MEMORANDUM

March 22, 2006

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Services Division

GILBERT M. NISHIMURA
Seki, Nishimura & Watase, LLP

RE: John Michael Brown v. County of Los Angeles
United States District Court Case No. CV 04-3789 DDP

DATE OF
INCIDENT: July 25, 2001

AUTHORITY
REQUESTED: \$35,000

COUNTY
DEPARTMENT: Sheriff's Department

CLAIMS BOARD ACTION:



Approve



Disapprove



Recommend to Board of
Supervisors for Approval

ABSENT

ROCKY A. ARMFELD

Chief Administrative Officer

John F. Krattli

JOHN F. KRATTLI

County Counsel

Maria M. Oms

MARIA M. OMS

Auditor-Controller

on April 3, 2006

SUMMARY

This is a recommendation to settle for \$35,000, a lawsuit filed by John Michael Brown, who claims that he was falsely arrested by Sheriff's Deputies, and wrongfully charged and incarcerated for murder based on an erroneous investigation conducted by the Sheriff's Department.

LEGAL PRINCIPLES

A public entity and its employees may be held liable under the Federal Civil Rights Act, when a person is arrested without probable cause. The prevailing party in a lawsuit brought under the Federal Civil Rights Act may be awarded attorneys' fees.

SUMMARY OF FACTS

On July 25, 2001, at approximately 10:00 p.m., a murder took place on South Tarron Avenue in Hawthorne, California. Witnesses reported that the suspect walked up to the victim's vehicle and fired multiple rounds from a handgun, killing the passenger. The suspect then left the area, running south on Tarron Avenue.

One witness identified John Michael Brown as the murder suspect. Another witness reported that someone who looked like Mr. Brown was standing on the sidewalk just a few houses from the scene of the murder, moments before the shooting. The Sheriff's Department used scent dogs that led them to Mr. Brown's residence approximately five blocks from the murder scene. On August 9, 2001, based on the investigation and information available, Mr. Brown was charged with felony murder.

In August 2003, Mr. Brown's attorney had the shell casings from the shooting tested, and they were negative for Mr. Brown's DNA. Investigators also determined that the witness who identified Mr. Brown as the suspect had been involved in an altercation with him prior to the shooting, and did not have a clear view of the shooter. The District Attorney's Office determined that it was unable to proceed to trial on the murder charge, and the case against Mr. Brown was dismissed.

Mr. Brown was incarcerated for approximately one year and eleven months.

DAMAGES

Should this matter proceed to trial we estimate the potential damages could be as follows:

Emotional Distress	\$ 500,000
Civil Rights Attorneys' fees	<u>\$ 250,000</u>
Total	<u>\$ 750,000</u>

The proposed settlement calls for the County to pay \$35,000 to Mr. Brown for all of his claims for damages, costs, and attorneys' fees.

STATUS OF CASE

The trial court proceedings in this matter have been suspended pending approval of this proposed recommended settlement.

Legal expenses incurred by the County to date in defense of this matter are attorneys' fees of \$48,174 and \$5,490 in costs.

EVALUATION

This is a case of contested liability. The Sheriff's Department believes that it arrested the correct individual based on the information it possessed at the time. However, given the DNA and identification issues that later came to light, a sympathetic jury could find that the Sheriff's Department was negligent in its investigation. A reasonable settlement at this time will avoid further litigation costs and a potential jury verdict that could exceed the proposed recommended settlement.

We join with our private counsel, Seki, Nishimura & Watase, LLP in recommending a settlement of this matter in the amount of \$35,000. The Sheriff's Department concurs in the settlement recommendation.

APPROVED:



ROGER H. GRANBO
Assistant County Counsel
Law Enforcement Division